

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CRIMINAL #04-10288-RWZ

UNITED STATES

v.

JOSEPH ALLEN

DEFENDANT'S OBJECTION TO CONTINUANCE OF TRIAL DATE

Joseph Allen, defendant in the above-captioned criminal case, hereby objects, pursuant to 18 U.S.C. §3161(a), and the 5th, 6th, and 8th Amendments to the United States Constitution, to the continuance of the trial date from April 3, 2006 to a date on or after May 1, 2006.

As grounds therefore, defendant avers as follows:

1. Defendant Joseph Allen ["Allen"] and a number of other defendants were charged in a criminal complaint on July 29, 2004 with conspiracy to distribute oxycodone and subsequent distribution of oxycodone in violation of 21 U.S.C. §§ 841(a)(1) and 846. An indictment was returned on September 22, 2004 charging Allen with conspiracy (Count 1) and one substantive count of distribution (Count 16).
2. On September 28, 2005, Allen was arrested on a warrant charging him with violating his conditions of pre-trial release. Following a revocation hearing, Magistrate Judge Swartwood entered a memorandum and order revoking Allen's release and ordering him detained pending trial. Thereafter, this Court entered a written order denying

Allen's motion to revoke the detention order. Allen has remained in custody awaiting trial continuously since September 28, 2005.

3. On November 23, 2005, Allen filed a motion for a speedy trial, seeking an order that trial commence as soon as possible. In response to that motion, the Court entered an order on January 23, 2006 stating: "The trial will commence on 4/3/06."
4. The defendant, through counsel, has been working assiduously to prepare for trial. On March 28, 2006, less than a week before the trial date set by the Court, the government for the first time stated at a pretrial conference that it would take three to four weeks to try the case. The Court indicated that it did not have that amount of time available to try the case beginning April 3rd because a civil case was already scheduled to begin the week of April 10, 2006. Accordingly, over the defendant's objection, the Court continued the trial date to a date on or after May 1, 2006.
5. It is the defendant's position that the continuance of the trial date violates his rights under the Speedy Trial Act and the United States Constitution. Since the pre-trial conference described above was not on-the-record, the defendant is filing this written objection to preserve his rights to seek appropriate relief.

Respectfully submitted,

JOSEPH ALLEN

By his attorneys,

/s/ James L. Sultan

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on March 29, 2006.

/s/ James L. Sultan

James L. Sultan